

**Law Offices of Randall M. Weiner, P.C.**  
**3100 Arapahoe Avenue, Suite 202**  
**Boulder, CO 80303**  
**Tel: (303) 440-3321**  
**FAX: (720) 292-1687**  
**E-mail: randall@randallweiner.com**

June 30, 2016

Jim Murray, Mine Operator at Alma Placer and Leaching Plant  
High Mountain Mining Company, LLC  
3040 S. Vallejo Street  
Englewood, Colorado 80110

*Delivery via Certified Mail, return receipt requested (tracking # 7012 1010 0000 8488 1180)*

**Re: Sixty-day Notice of Intent to Sue**

To Whom It May Concern:

This letter constitutes a "Notice of Intent to Sue" the High Mountain Mining Company, LLC (hereinafter the "Company") related to the operation and maintenance of the Alma Placer and Leaching Plant (commonly referred to as the "Alma Placer Mine" or "Mine") in Park County, Colorado, along the Middle Fork of the South Platte River (hereinafter the "Middle Fork").<sup>1</sup> The Company violated the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) by discharging materials and pollutants into the Middle Fork without required permits and state certifications.

This follow-up to the October 27, 2014 Notice of Intent is being issued on behalf of Richard Hamilton and the South Park Coalition, pursuant to Clean Water Act § 505, 33 U.S.C. § 1365.

**I. Violations of Clean Water Act Standards, Limitations and Orders**

The Company is in violation of the Clean Water Act's effluent standards, limitations and orders by discharging sediments and/or pollutants into the Middle Fork without obtaining a national pollutant discharge elimination system ("NPDES") permit, or state pollutant discharge elimination system ("SPDES"), or a certification that such discharges meet Colorado water quality standards, as required under 33 U.S.C. § 1341. The Company has violated the permitting requirements of Clean Water Act § 402 (NPDES) and § 404 (dredge and fill). The Company admits it did not have an NPDES permit for the discharges described herein. The Company's unpermitted discharges to navigable waters violate U.S.C. §§ 1311 and 1342.

---

<sup>1</sup> The Alma Placer Mine is located at 39° 17' 3" N/106° 3' 48" W Park County within Section 1 Township 9S, Range 78W, of the 6th. P.M. (Alma, Colorado).

## **II. Description of Violations**

On or about October 3 through October 4, 2014, the Company discharged a large plume of sediment, mud, mine waste, and other materials from the Alma Placer Mine into the Middle Fork. There are three sources of unpermitted discharges: the intake pipe at the Alma Placer Mine; another pipe/culvert at or about the lower limits of the Alma Placer Mine, underneath Highway 9, approximately 0.3 – 0.5 miles downstream from the Pump House; and through the groundwater from the mine via the alluvium soil. Two of these sources, the pipe/culvert and the groundwater from the mine, are sources of contamination that are ongoing and likely to continue absent modifications to the Alma Placer Mine. From each of these three sources, the discharged materials moved and move from the mine and into the Middle Fork, which is a navigable water of the United States.

The discharges from the Mine travelled downstream and left a very fine brownish sediment in the Middle Fork. The pollutants discharged into the Middle Fork include, but are not limited to: cadmium, iron, lead, arsenic, magnesium, aluminum, calcium, uranium, radon, zinc and manganese. Among other possible damages, the sediment deposit was slippery and covered fish spawning nests and fish eggs, as well as invertebrates living under rocks suffocated by the discharge sediment. The discharged pollutants have exceeded the Colorado Surface Water Quality Standards, as set forth in Regulation 31, for the segment of the Middle Fork that received the discharge sediment.

The discharged sediment is still present in the Middle Fork. No § 404 (dredge and fill) permit has been obtained by the Company for this sediment. There is a reasonable likelihood of ongoing migration of the discharged materials, which will cause lasting environmental degradation of the Middle Fork. Future injury to the river ecosystem and the watershed is likely to continue due to unpermitted discharges by the Company into the Middle Fork.

The Company's discharges adversely affected and continue to threaten and adversely affect the water quality and sediment of the Middle Fork, decreasing the health and populations of certain species such as Brown Trout, decreasing trout fisheries, reducing the activities of aquatic invertebrates in a heavily-used recreational and fishing location of the Middle Fork, affecting property values, recreational activities (i.e., fishing, wading, dog walking, picnicking, hiking) and tourism and aesthetic enjoyment of the Middle Fork. The Company is responsible for continuing violations of the Clean Water Act which prohibits the discharge of pollutants in any amount without a permit or in excess of permit limits.

## **III. Notice of Intent to Sue**

The Clean Water Act allows any person to bring a lawsuit in federal court against any person who is alleged to be in violation of an effluent standard or limitation. In actions under the Clean Water Act, federal courts have the authority to enforce the requirement that has been violated, enjoin activities and impose civil penalties of up to \$37,500 per day of violation.

Each day that an unlawful discharge occurs, including an unpermitted discharge, constitutes



a separate violation of the Clean Water Act. The Company is responsible for the violations alleged in this letter. Employees and supervisors with oversight responsibilities over operations at the Alma Placer Mine are also responsible for any unlawful operations. The Clean Water Act violations are continuous or intermittent, and commenced after the Clean Water Act's enactment in 1972.

The Clean Water Act requires that a notice of intent to sue be given to an alleged violator sixty days before the suit is filed. This letter constitutes our Notice of Intent to Sue the Company for its violations of the Clean Water Act. Notice of the alleged violation is also being provided to the U.S. Environmental Protection Agency ("EPA") and the EPA Regional Administrator; the Colorado Department of Public Health and Environment Water Quality Control Division; the Colorado Attorney General; and the Company's registered agent. 40 CFR 135.2. This notice covers all violations of the Clean Water Act known to counsel or its clients from public records now available to us. Our lawsuit, when filed, will also address such other violations as may occur or become apparent after service of this notice letter.

#### **IV. Parties**

Counsel intends to sue on behalf of the below described and potentially other interested parties:

1. Richard Hamilton is an individual living on the Middle Fork, approximately six (6) miles downstream from the unpermitted discharges described herein. He lives at 531 Front Street, Fairplay, Colorado 80440, which is riparian land on the Middle Fork. He has resided in the headwaters area of the Middle Fork for more than forty (40) years and is a taxpayer to the Town of Fairplay, Colorado. Mr. Hamilton is also a co-founding officer of and a current director of The South Park Coalition.
2. Pamela Stone is an individual living on the Middle Fork. Her address is 420 Front Street, Fairplay, Colorado 80440, which is riparian land on the Middle Fork. Ms. Stone is a taxpayer to the Town of Fairplay, Colorado.
3. The South Park Coalition is a 501(c)(4) non-profit corporation made up of approximately 100 members, some of whom live in or around the Middle Fork. The South Park Coalition is an environmental, public interest and public trust advocacy organization working to enhance the natural resources of Park County, Colorado and the South Park Basin. All of its members are concerned about the water quality of the Middle Fork and the impact that impaired water quality and sediment discharges to the Middle Fork has had or may have on property values, recreational activities (including, hiking, fishing, picnicking, biking), tourism and aesthetic enjoyment.

If you wish to pursue discussions, or if you have any questions about the issues raised in this letter, please feel contact Randall Weiner at (303) 440-3321 or Kirstin Jahn at (303) 545-5128.

Very truly yours,



Randall M. Weiner, Esq.

Cc:

WyomingRegisteredAgent.com, Inc, Registered Agent  
High Mountain Mining Company, LLC  
3040 S. Vallejo Street  
Englewood, Colorado 80110  
*Delivery via Certified Mail, return receipt requested (tracking #7013 2630 0001 0243 6075)*

Gina McCarthy, Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
*Delivery via Certified Mail, return receipt requested (tracking # 7013 2630 0001 0243 6099)*

Shaun McGrath, Region 8 Administrator  
Environmental Protection Agency  
1595 Wynkoop Street  
Denver, CO 80202  
*Delivery via Certified Mail, return receipt requested (tracking # 7013 2630 0001 0243 6105)*

Patrick Pfaltzgraff, Director  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
4300 Cherry Creek Drive South  
WQCD-B2  
Denver, CO 80246  
*Delivery via Certified Mail, return receipt requested (tracking #7013 2630 0001 0243 6112)*

Cynthia H. Coffman, Attorney General  
Office of the Attorney General, Colorado  
1525 Sherman St., 7th floor  
Denver, CO 80203  
*Delivery via Certified Mail, return receipt requested (tracking # 7011 0470 0002 0238 4199)*